## FORM PTÒ-1083

COMMISSIONER FOR PATENTS P.O. Box 1450

Alexandria, VA 22313-1450



Docket No.: 206.1004US

Date: June 7, 2004

In re application of: Emil CIURCZAK, et al

Serial No.: 10/657,657 September 8, 2003 Filed:

APPARATUS AND METHOD FOR NON-INVASIVE MEASUREMENT OF BLOOD CONSTITUENTS For:

Sir:

Transmitted herewith is a Information Disclosure Statement in the above-identified application.

[]	Small entity status under 37 C.F.R. 1.9 and 1.27 has been previously established.
ĺ	Applicants assert small entity status under 37 C.F.R. 1.9 and 1.27.

No fee for additional claims is required. [X]

A filing fee for additional claims calculated as shown below, is required:

	(Col. 1)	(Col. 2)	_	SMA	LL E	NTITY	_	LARGE ENTITY
FOR:	REMAINING	HIGHEST		<u> </u> RA	TE	FEE	OR	RATE   FEE
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	AMENDMENT	PAID FOR	EXTRA	_				
TOTAL CLAIMS	* Minus	** =	0	x \$	9	\$	_	x \$ 18 \$
INDEP. CLAIMS	* Minus	*** =	0	x \$	40	\$	_	x \$ 80 \$
[ ] FIRST PRES	ENTATION OF	MULTIPLE DE	EP. CLAIM	+ \$	135	\$	_	+ \$270 \$
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If the entry in Co. 1 is less than the entry in Col. 2, write "0" in Col. 3.

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[ ] Petition for extension under 37 C.F.R. 1.136

[X] Other: Form PTO 1449 and Copies of References Cited

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- [ ] Filing fee for additional claims under 37 C.F.R. 1.16
- [ ] Petition fee for extension under 37 C.F.R. 1.136

[ ] Other:

- [X] The Assistant Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-0552.
  - [] Any filing fee under 37 C.F.R. 1.16 for the presentation of additional claims which are not paid by check submitted herewith.

[X] Any patent application processing fees under 37 C.F.R. 1.17.

Any petition fees for extension under 37 C.F.R. 1.136 which are not paid by check submitted herewith, [X] and it is hereby requested that this be a petition for an automatic extension of time under 37 CFR 1.136.

> Cary S. Kappel, Reg. No. 36,561 DAVIDSON, DAVIDSON & KAPPEL, LLC 485 Seventh Avenue, 14th Floor

New York, New York 10018

Tel: (212) 736-1940 Fax: (212) 736-2427

I hereby certify that this correspondence and/or documents referred to as attached therein and/or fee are being deposited with the United States Postal Service as "first class mail" in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on June 7, 2004. DAVIDSON, DAVIDSON & KARPEL, LLC

If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space. If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space.



June 7, 2004



## UNITED STATES PATENT AND TRADEMARK OFFICE

Re:

Application of:

Emil CIURCZAK, et al.

Serial No.:

10/657,657

Filed:

September 8, 2003

For:

APPARATUS AND METHOD FOR NON-INVASIVE MEASUREMENT OF BLOOD CONSTITUENTS

Art Unit:

3736

## INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

In accordance with Applicant's duty of disclosure under 37 C.F.R.§1.56 and the provisions of 37 C.F.R. §§ 1.97 and 1.98, Applicants hereby make of record the references listed on the attached Form PTO-1449. Also enclosed is a copy of the International Search Report for the corresponding PCT Application WO 2004/023974 A2.

The present Information Disclosure Statement is filed under 37 C.F.R. §1.97(b), before the mailing of a first Office Action on the merits. Accordingly, it is believed that no fee is due. However, if it is determined that any fee is due, the Examiner is authorized to charge said fee to Attorney Deposit Account No. 50-0552.

Respectfully submitted,

DAVIDSON, DAVIDSON & KAPPEL, LLO

By:\_

Cary S. Kappel Reg. No. 36,561

DAVIDSON, DAVIDSON, & KAPPEL, LLC 485 Seventh Avenue, 14th Floor New York, New York 10018 (212) 736-1940

ATTY. DOCKET NO .: SERIAL NO.: 10/657,657 FORM PTO-1449 U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE 206.1004US (REV. 7-80) LIST OF PRIOR ART CITED BY APPLICANT APPLICANT(S): Emil CIURCZAK, et al Use several sheets if necessary) GROUP: FILING DATE: September 8, 2003 3736 JUN 0 9 2004 U.S. PATENT DOCUMENTS DOCUMENT NUMBER DATE NAME CLASS SUBCLASS FILING DATE IF APPROPRIATE INITIAL AA 5 8 8 07/08/97 Bocker, et a. 128 633 20 7 09/05/02 Haaland 600 300 AB 02 01 23 6 5 7 12/10/91 633 AC 0 0 8 4 Barnes, et al. 128 09/20/94 633 ΑD 5 3 8 ٥ 0 3 Caro 128 ΑE 5 2 3 6 5 09/07/93 Fein 359 636 6 5 5 0 2 600 AF 0 04/04/00 Eppstein, et al. 306 7 12/12/00 AG 6 5 9 4 Lichter, et al. 600 300 5 5 6 9 6 10/29/96 Lord, et al. 604 67 AΗ 1 8 7 5 07/18/02 600 310 ΑJ 20 02 00 95 0 Madarasz, et al. FOREIGN PATENT DOCUMENTS **DOCUMENT NUMBER** DATE COUNTRY **CLASS SUBCLASS TRANSLATION** NO YES OTHER PRIOR ART (Including Author, Title, Date, Pertinent Pages, Etc.) Harriington, P.C.; "Temperature-Constrained Backpropagation Neural Networks," Analytical Chemistry, vol. 66, No. 6, pp. 802-807(1004). AJ AK Savitsky, A and Golay, Marcel J.E.; "Smoothing and Differentiation of Data by Simplified Least Squares Procedures," Analytical Chemistry, vol. 36, No. 8, pp. 1627-1640 (1964). ΑL Osborne, B.G., Fearn, T. And Hindle, P.H.; "Practical NIR Spectroscopy, With Applications in Food and Beverage Analysis," 2.supp.nd Ed, Longman Scientific and Technical, pp. 114-116(1993) AM Draper, N. And Smith, H.; "Chapter 14 Dummy Variables," Applied Regression Analysis, 3.sup.rd Ed, pp. 299-324(1998). AN Mark, H.; "Use of Mahalanobis Distances to Evaluate Sample Preparation Methods for Near-Infrared Reflectance Analysis," Analytical Chemistry, vol. 59, No. 5, pp. 790-795 (Mar. 1, 1987). AO Mark, H.; "Normalized Distances for Qualitative Near-Infrared Reflectance Analysis," Analytical Chemistry, vol. 58, No. 2 pp. 379-384 (1986) DATE CONSIDERED **EXAMINER** \*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include

copy of this form with next communication to applicant.

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	DX	Van To	orenbe	rgen, A. 209-211	W., et al (1988).	l., "Me	asure	ment o	f Total Serum Prote	ein by Near-Infrared Reflectan	ce Spectrosc	opy," J. Clin. Che	m. Clin. Bioch	em., vol.	
	DY	Ciurcza	ak, E.W	.,. et al., ecular S	"Chapte	er II.B. copy V	2 Idei /orkb	ntificati ench, p	on of Actoves in Mu pp. 89-109, John Wi	Iticomponent Pharmaceutical ley & Sons, Inc. (1998).	Dosage For	ns Using Near-Int	frared Reflecta	ince	
	DZ	Ciurcza	ak, E.W	., et al.,	Chapter	II.B.8	Anal	ysis of		sage Forms Using Near-Infra	red Reflectan	ce Spectroscopy	Molecular Spe	ectroscopy	
	EA	Ciurcza	ak, E.W	. et al., "		II.C.1				olbox For UV/VIS Spectroscop	y;" Molecular	Spectroscopy W	orkbench, pp.	165-172,	
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FORM PTO-1449 (REV. 7-80)	LIST OF PRIOR ART CITED BY APPLICANT (Use several sheets if necessary)  U.S. PATENT  R  DOCUMENT NUMBER  EB 5 6 6 8 3 7 3 09/97  EC 5 6 6 8 3 7 4 09/97  ED 5 6 7 2 8 7 5 09/97  EE 5 6 7 6 1 4 3 10/97  EF 5 6 8 0 3 2 0 10/97  EG 5 6 8 0 3 2 1 10/97  EH 5 6 9 2 5 0 4 12/97  EI 5 7 0 6 2 0 8 01/98  EJ 5 7 1 0 6 3 0 01/98  EK 5 7 1 2 4 8 1 01/98  EL 5 7 1 2 7 9 7 01/98					ATTY. DOCKET NO 206.1004US	.:	SERIAL NO.: 1	0/657,657					
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	ED	5	6	7	2	8_	7	5	09/97	Block, et al.				
	EE	5	6	7	6	1	4	3	10/97	Simonsen, et al.				
	EF	5	6	θ	0	3	2	0	10/97	Helmer, et al.				
	EG	5	6	8	0	3	2	1	10/97	Helmer, et al.			,	
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	El :	5	7	0	6	2	0	8	01/98	Osten, et al.				
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	EK	5	7	1	2	4	8	1	01/98	Welch, et al.				
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	ЕМ	Courc (1998)		/., et al.,	"Chapt	er III.1	Purg	ament	unuit, Purgament	a Exiunt:" Molecular Spe	ectroscopy Wo	rkbench, pp. 315-31	7, John Wiley &	Sons, Inc
	EN			t al., "Ch	apter 4	Comm	erica	INIRI	nstrumentation," Ha	ndbook of Near-Infrared	d Analysis, pp.	37-51, Mracel Dekk	er, Inc. (1992).	
	EO Burns, D.A., et al., "Chapter 5 Process Analysis," Handbook													
	EP	Burns		t al., "Ch	apter 6	Data A	-			and Principal Compone			frared Analysis,	рр. 107-
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	EV	5	7	5	2	5	1	2	05/98	Gozani				
	EW	5	7	7	1	8	9	1	06/98	Gozani				
	EX	5	7	8	2	7	5	5	07/98	Chance, et al.				
	EV	5	7	9	8	6	3	2	08/98	Pezzaniti, et al.				
	EZ	5	7	9	8	5	2	6	08/98	Shenk, et al.	. —			
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	FB		D.A., et Dekker		apter 7					uments by PLS Regres		k of Near-Infrared A	nalysius, pp. 15	9-180,
	FC					) NIR	Spect	roscop	y Calibration Basics	s," Handbook of Near-In	frared Analysis	, pp. 247-280, Mrac	el Dekker, Inc. (	1992).
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	FF	5	8	2	3	9	5	1	10/98	Messerschmidt				
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	FH	5	8	3	8	1	3	2	11/98	Robinson				
	FK	5	8	3	0	1	3	3	11/98	Osten, et al.				
	FJ	5	8	4	0	0	2	0	11/98	Heinonen, et al.	600	365		
	FK	5	8	4	4	5	2	3	11/98	Degen, et al.		:		
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	FU	5	9	4	6	6	4	0	08/99	Goodacre, et al.				
	FV	5	9	6	6	7	6	0_	10/99	Phillips, et al.				
	FW	5	9	8	5	1	2	0	11/99	Cholli, et al.				
	FX	6	0	0	6	1	1	•	12/99	Soller, et al.				
	FY	6	0	1	2	0	1	•	01/00	Saby	_			
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	GD	6	0	6	1	5	8	2	05/00	Small, et al.					
	GE	6	0	6	4	0	6	5	05/00	Block, et al.					
-	GF	6	0	0	4	8	9	7	05/00	Lindberg, et al.					
	GG	6	0	6	6	θ	4	7	05/00	Rosenthal					
	GH	6	0	6	7	4	6	3	05/00	Jeng, et al.					
	GК	6	0	7	0	1	2	8	05/00	Descales, et al.					
	GJ	6	0	8	7	1	8	2	07/00	Jeng, et al.					
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	GM	6	1	1	0	5	2	2	08/00	Lepper, Jr., et al.				
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	GQ	6	1	4	5	6	7	3	09/00	Malin, et al.				
	GP	6	1	2	4	1	3	4	09/00	Stark				
	GQ	6	1	3	7	1	0	8	10/00	DeThomas, et al.				
	GR	6	1	5	1	5	1	7	11/00	Honigs, et al.				
	GS	6	1	5	7	0	4	1	12/00	Thomas, et al.				1
	GT	6	1	5	9	2	5	5	12/00	Perkins				
	GU	6	1	6	1	0	2	8	12/00	Braig, et al.				
	GV	6	1	8	1	5	5	7	01/01	Lambert, et al.				
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	НВ	0	3	8	2	9	0	8	08/90	EP				
	нс	0	6	8	0	7	2	7	11/95	EP				
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